



Republican
National
Committee

Counsel's Office

July 28, 2003

Mr. Michael E. Scurry
Ms. Susan L. Lebeaux
Office of General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

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OFFICE OF GENERAL
COUNSEL

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VIA FACSIMILE: (202) 219-3923

RE: MUR 5197
Republican National Committee and
Michael L. Retzer, as treasurer

Dear Ms. Lebeaux and Mr. Scurry,

Through your correspondence dated June 17, 2003, the Federal Election Commission ("FEC" or "Commission") informed the Republican National Committee ("RNC") and Michael L. Retzer, as treasurer, that the Commission has found reason to believe that they may have violated provisions of the Federal Election Campaign Act. The RNC is fully committed to complying with all provisions of the Federal Election Campaign Act of 1971, as amended (2 U.S.C. § 431 et seq.)(hereinafter "the Act"), as well as the pertinent Commission Regulations, and looks forward to expeditiously resolving this matter. To that end, the RNC is amenable to entering into a reasonable conciliation agreement prior to the consideration of a probable cause determination by the Commission.

RNC RESPONSE TO FEC FACTUAL AND LEGAL ANALYSIS

The RNC acknowledged in our reply to the Complaint that over the three-year period from 1998 to 2000, the Republican Governors Association ("RGA", which at that time operated within and reported through the Republican National State Elections Committee, or "RNSEC") received checks totaling \$51,470 from Fannie Mae and deposited those checks in the RNSEC account. The RNC, however, at no point knowingly accepted or received any contribution prohibited by 2 U.S.C. § 441b(a), as evidenced by the fact that when the RGA received a fax from Fannie Mae requesting that previous payments from Fannie Mae to the RNC be either refunded or redesignated to the

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Eisenhower Building Fund, the RNC on the very same day (April 19, 2001) refunded the \$51,470 to Fannie Mae.

The Commission asserts that included in the \$51,470 refunded to Fannie Mae was \$1,470 not reported by the RNC as contributions from Fannie Mae, in alleged violation of 11 C.F.R. § 104.8(e). This \$1,470 consisted of conference fees from 1999 and 2000 that were, out of an abundance of caution by the RNC, refunded to Fannie Mae. In fact, however, these conference fees were paid by individuals that work for Fannie Mae and attended RGA conferences, and were accurately reported as individual contributions to RNSEC.¹ The RNC violated no part of the Act by being over-inclusive in refunding money to Fannie Mae (even though that money was in fact contributed by individuals), and should not be punished for being overly cautious.

Over two years subsequent to the filing of the Complaint and the RNC's response, the Commission has brought to our attention that the RNC mistakenly deposited a \$250,000 contribution from Freddie Mac that had been designated for the Eisenhower Building Fund into the RNSEC Account. The RNC has a deposit review process that results in the accurate deposit of the overwhelming majority of contributions to the RNC, and this mistaken deposit was an exception to that otherwise effective review process. To speculate, the mistaken deposit was most likely due to the holiday season and rush prior to holiday vacation. The RNC sincerely regrets this error and will continue to take all precautions to prevent a human error like this from occurring again. We wish to emphasize, however, that this was a mistaken deposit of just one (albeit large) check, in the midst of the hectic holiday season five days prior to Christmas in 2001.

CONCLUSION

The RNC regrets the deposit errors that are the subject matter of this MUR. The RNC finance, accounting, and legal divisions make every effort to avoid mistaken deposits, especially in the context of the millions of deposits of contributions that are made yearly by the RNC. We are confident that the RNC has procedures in place to avoid similar mistaken deposits, and we feel that the RNC has an overall very good track record for avoiding mistakes. The RNC is willing to enter into pre-probable cause conciliation, and understands that a modest civil penalty is likely to be a part of an agreement that the Commission would agree to enter into.

¹ Upon request, we would be pleased to provide to the Commission copies of the credit card contribution slips from the individuals in question, as well as the pages of the relevant FEC reports where those contributions were reported.

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Please do not hesitate to contact me at (202) 863-8638 if there is additional information that I can provide to you on this matter.

Respectfully Submitted,


Charles R. Spies
Election Law Counsel

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